

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 1999-254

January 3, 2003

NORTHERN UTILITIES, INC.-MAINE
Request for Waiver of Chapter 820

ORDER CONDITIONALLY
APPROVING
SUPPORT SERVICE
AGREEMENT AND
COST ALLOCATION
MANUAL

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we approve Northern Utilities, Inc.'s Support Service Agreement filed on January 9, 2001 and the Cost Allocation manual filed on October 25, 2001, as modified in accordance with this Order.

II. BACKGROUND

On April 14, 1999, Northern Utilities, Inc. (Northern) filed a petition for waivers from Chapter 820 of the Commission's rules. The Public Advocate, the Maine Oil Dealers Association (MODA), Central Maine Power Company (CMP), Enron Energy Marketing and the Plumbing Heating and Cooling Contractors of Maine (PHCC) intervened in the case. On September 15, 2000, these parties submitted a revised stipulation. The Commission approved the stipulation by Order issued on October 11, 2000. As required by both the stipulation and the order, the Company filed proposed Support Services Agreements and a Cost Allocation Manual on January 9, 2001. In a technical conference held on March 28, 2001, to discuss the compliance filing, the parties agreed that Commission staff and the Company could work on any necessary revisions to the cost allocation manual. On April 11, 2001, June 22, 2001, August 5, 2001 and October 25, 2001, the Company filed updated Cost Allocations manuals after discussions with the Staff. On November 18, 2002, Northern reported that it terminated Guardian Care Service, Fee-for-Service Calls and Equipment Sales or Installations in Maine because "the economics did not support Northern's continued offering in Maine" of these services, but that Northern did continue to provide water heater rental and conversion burner rental non-core services.

III. DISCUSSION AND DECISION

The approved Stipulation in this docket required Northern to provide its Guardian Care Service, Service Calls, Equipment Sales or Installation, Water Heater Rental, and Conversion Burner Rental through a separate affiliate in accordance with the terms of the Stipulation and the provisions of Chapter 820. While Northern no longer provides many of these services, it still must provide the remaining services through one of its affiliates in accordance with Chapter

820. Further, the agreement providing the terms for the provision of these services is an affiliated interest agreement that requires our approval. See 35-A M.R.S.A. § 707. Finally, Chapter 820 requires the development of a cost allocation manual setting forth the methodology for allocating costs between the utility and its affiliate.

The Support Services Agreement (Agreement) is between Northern and one of its affiliates, Columbia Service Partners, Inc. (Partners). The Agreement states that “Northern may from time to time provide Partners with services, such as billing and bill inserts services, accounting services, and other services for consumer services offered by Partners to its customers. The agreement also states that all costs will be allocated in accordance with Northern’s Cost Allocation manual. We note that this agreement does not specify that the services to be provided are those related to the operation of Northern’s water heater rental and conversion burner rental non-core services. We approve the support services agreement for the purposes specified above.¹

The Cost Allocation Manual sets forth a valuation and allocation scheme that is generally consistent with the requirements of Chapter 820, except, as the Public Advocate points out, for section four of the manual relating to valuation of Northern’s assets used by its affiliates. This section states:

To the extent that future assets purchased by Northern for use in its core utility service operations are utilized by a non-regulated affiliate for non-core service, the non-regulated affiliate will be required to pay the tariffed rate, if applicable, or in the absence of a tariffed rate, the fully distributed cost of the asset, in accord with the requirements established by Chapter 820 and the SEC.

Cost Allocation Manual § 4.

The applicable provision of Chapter 820 provides:

Any utility equipment, facility, service or personnel used by an affiliate or used by a utility to provide *de minimis* service shall be charged to the affiliate at the tariffed rate, if available, or in the absence of a tariffed rate at the market price, if available, or otherwise at full distributed cost.

Chapter 820 § 4. We will require Northern to substitute the following language (or similar language) so that the cost allocation manual is consistent with Chapter 820.

Any Northern utility asset used by its non-regulated affiliate shall be charged to the affiliate at the tariffed rate, if available, or in the absence of

¹ We see no reason why this Support Services Agreement should not apply to other services that are not the subject of this case if in providing such additional services Northern is in compliance with the requirements of 35-A M.R.S.A. section 707 and 708 as well as Chapter 820 of our rules.

a tariffed rate at the market price, if available, or otherwise at fully distributed cost.

This provision ensures that the market price if available will be used to value the use of utility assets if the tariffed rate is not available. Thus, for example, if the affiliate were occupying a building owned by Northern, we would anticipate that Northern would charge the market rate, if available, for renting the building or a portion of the building. We also note that Northern's provision appears to apply only to "future assets." It is not clear how this provision would be applied, and, in any event, Chapter 820 envisions that when an affiliate uses a utility asset, *whenever purchased*, the affiliate should pay for the use of the asset. The rationale for this provision, of course, is to ensure that "cost shifting from the affiliate to the utility's ratepayers does not occur." *Public Utilities Commission, Requirements for Non-Core Utility Activities and Transactions Between Affiliates (Chapter 820)*, Docket No. 97-886, Order Provisionally Adopting Rule and Statement of Factual and Policy Basis at 41.

In other respects, we find that the cost allocation manual is consistent with the requirements of Chapter 820 and therefore, we approve the manual. The approval of the cost allocation manual does not preclude regulatory review of the costs included in any Northern rate proceeding.

Accordingly, we

O R D E R

1. That the Support Service Agreement filed on January 9, 2001, is approved.
2. That the Cost Allocation manual, filed on October 25, 2001, as modified consistent with the body of this Order, is approved.
3. That Northern shall file a revised cost allocation manual to incorporate the changes specified in the body of this Order.

Dated at Augusta, Maine, this 3rd day of January, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond

COMMISSIONER ABSENT: Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.